IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.678 OF 2006

Shri Sudam K. Ghule and ors. ...Appellants

v/s

Smt Narmadabai P. Ghule and ors. ...Respondents

Mr P.B. Shah for Appellants.

Mr R.S. Kate for Respondent Nos.1 to 6.

CORAM : D.K. DESHMUKH J.

DATE : 20TH JULY 2007.

P.C. :-

1. The learned counsel appearing for appellants submits that the Appeal Court has held that the water channel is in existence but rejected the prayer of the appellants for an order to take water from the channel on the ground that the appellants were not able to prove use and consequently the appellants loose the right. The learned counsel submits that the Appeal Court should have considered that taking water from water channel is a prescriptive right of easement and long user is sufficient ground to establish the same but the Appeal Court ignored this point though urged before the Trial Court. As the point was not raised before the Appeal Court, it cannot be raised for the first time in this Court. No substantial question of law arises. Appeal is rejected. Civil application No.993 of 2006 is disposed off.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Private Secretary as true copy.

. Certified copy expedited.